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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/010,983	12/06/2001	Christopher M. Benson	9902	9424
26884 7590 03/23/2007 PAUL W. MARTIN NCR CORPORATION, LAW DEPT. 1700 S. PATTERSON BLVD. DAYTON, OH 45479-0001			EXAMINER TRAN, HAI	
			ART UNIT	PAPER NUMBER
			3693	
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		03/23/2007	PAPER	

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

**Office Action Summary**

Application No.

10/010,983

Applicant(s)

BENSON, CHRISTOPHER M.

Examiner

Hai Tran

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on 08 January 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Acknowledgements***

1. The examiner for this application has changed. Please indicate Examiner Hai Tran as the examiner of record in all future correspondences.
2. This communication is in response to the applicant's amendment filed on January 8, 2007. Claims 1-5 and 11 have been cancelled. Claims 6, 8, 9, 10, 12, and 13 have been amended.

### ***Response to Arguments***

3. Applicant's arguments with respect to claims 6, 8, 9, 10, 12, and 13 have been considered but they are not persuasive. Applicant simply states the conclusion that the references in the 8/8/2006 Office Action did not teach or suggest to produce a system and method that anticipate the Applicant's claims, and that the Applicant did not point out the specific invalid points in the rejection. Further more, the amended claims are in general edited with more details in nature. Examiner would like to point out that use of patents as references is not limited to what a patent is described as the invention. In the previous Office Action, the Prior Art sections of the references were used for the purpose of the rejection of the claims. Examiner re-reviewed the 8/8/2006 Office Action and is convinced that the structure of the combination of the references is capable of processing bulk customer transaction data and analyzing the data in separate mode. Therefore, Examiner determines that the previous rejection is valid and as well applicable to the amended claims, hence, the rejection is maintained.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Freedman et al. in view of Fernandes et al.

6. Freedman et al. teaches a scheduler for a multiple computer system. Within the background of the invention Freedman et al. teaches a master-slave concept in which several computers are coordinated through a master control. The master designates which tasks are executed by the individual computers (operating a control processor to subdivide a bulk data set into subdivisions of data; operating the control processor to send the subdivisions of data to a plurality of processors connected to the control processors via network; and operating the processors of the plurality of terminals to process the data) (column 1; lines 38-44).

7. Freedman et al. further teaches a task selection on each computer is performed by a Scheduler on a priority basis. When a given computer needs to select a task (is substantially idle; claim 3) the computer scans the task status information. Examiner notes that this teaching is consistent with interrupting the data processing, if a computer needs to process a transaction that has higher priority (claim 5).

8. The system of Freedman et al. does not specifically teach that the network of terminals as point-of-sale terminals. Fernandes et al. teaches retail operations utilize a

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plurality of point-of-sale terminals coupled to a central computer. It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the teachings of Freedman et al. by further specifying that the network of terminals be point-of-sale terminals, in order for retail operations to leverage their existing hardware when performing large computing tasks.

9. Examiner notes that the rejection presented above, with respect to claims 1-5 is the same rejection presented in the Office Actions mailed 12/5/03 and 6/2/04. Further, since this rejection (i.e. claims 1-5 under 35 U.S.C. 103(a) as being unpatentable over Freedman et al. in view of Fernandes et al.) was withdrawn from consideration in the Appeal Brief submitted 2/10/05, Applicant has acquiesced this rejection (see MPEP 1207).

10. Claims 6-10, 12, and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ellis in view of Balderrama.

11. Ellis teaches a commercial distributed processing by personal computers over the Internet.

12. With respect to claim 6, Ellis teaches a plurality of personal computer terminals connected to each other by a network for processing data in a first mode of operation and for analyzing portions of bulk data in a second mode of operation (see for example column 4, lines 41-65 and column 8, lines 38-62). Examiner notes here that Ellis teaches these personal computers can be any micro-processor based computer.

13. With further respect to claim 6, Ellis teaches a server connected to the personal computer terminals by the network including a control processor for dividing the bulk

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data into the portions, for assigning the portions to the personal computer terminals, for placing the personal computer terminals in the second mode of operation, for receiving results of the bulk data analysis from the personal computer terminals (column 4, lines 57-58, column 12, lines 28-32; column 13, lines 5-7; and the paragraph bridging columns 15 and 16).

14. Examiner notes that the cited portions of Ellis are specifically geared towards the a search which is broken up, distributed and then received back. However, Examiner notes the other portions of Ellis which teach using this same processes for analysis such as weather and research models.

15. With respect to claim 6, Ellis teaches all the claimed limitations (as discussed above) except where the personal computer terminals are point of sale machines nor where the data is specifically customer history data. Examiner once again points out that Ellis teaches the use of personal computers which can be any micro-processor based computer. However, Ellis never explicitly mentions point of sale computers.

16. Balderrama teaches the clustering of point of sale terminals each of which are microprocessor based in order to collect customer history data pertaining to inventory levels, revenues, sales, purchase trends, etc. (see for example column 4, lines 35-56).

17. It would have been obvious to one of ordinary skill in the art at the time of the present invention to modify the personal computer terminals of Ellis to be POS terminals as taught by Ellis in order to collect data pertaining to inventory levels, revenues, sales, purchase trends, etc.

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18. With respect to claim 6, Ellis further fails to teach performing trend analysis on the results. Balderrama teaches collecting data and then analyzing the data (see for example column 4, lines 51-55). Examiner notes that this data is analyzed in order to identify potential areas for improvement.

19. It would have been obvious to one of ordinary skill in the art to modify the teaching of Ellis to include analyzing data after it is received back from the external parallel processing as taught by Ellis in order to identify potential areas for improvement.

20. With respect to claim 7, Ellis teaches the control processor additionally determines whether the personal computer terminals are idle before placing them in the second mode of operation (see for example column 11, lines 24-52):

21. With respect to claim 8, Ellis teaches wherein the personal computer terminals suspend data analysis if the personal computer is made non-idle (see for example column 11, lines 36-52).

22. As pointed out with respect to claim 6, Ellis does not teach a POS machine. However, the combination of Ellis in view of Balderrama does. Based on this combination, Examiner notes that detecting "an application being opened in the first PC, when the device would signal the network compute such as server 2 that the PC is no longer available" would be recognized by one of ordinary skill in the art to be a user utilizing the POS (of the combination of Ellis and Balderrama) to process a transaction, as processing transaction is primary purpose of a POS terminal.

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23. As such it is the position of the Examiner that the combination of Ellis and Balderrama teaches wherein the POS terminals suspend customer history data analysis of the second mode operation to process the transaction of the first mode of operation.

24. With respect to claim 9, Ellis teaches wherein the control processor transfers the portions of the bulk customer history data from the first personal computer terminal operating in first mode of operation to second personal computer terminals operating in the second mode of operation (see for example column 20, lines 8-32).

25. Examiner notes that the cited portions of Ellis represents the ability to shift computing resources from personal computers which are being utilized to personal computers which are idle. Further, while the methodology of the example in Ellis is directed to night time versus day time it applies equally to any situation where one computer is idle and another being utilized.

26. Once again, as pointed out with respect to claim 6, Ellis does not teach a POS terminal. However, the combination of Ellis in view of Balderrama does. Based on this combination, Examiner takes the position that the combination of Ellis and Balderrama teaches "wherein the control processor transfers the portions of the bulk customer history data from the first point-of-sale terminals operating in the first mode of operation to second point-of-sale terminals operating in the second mode of operation.

27. Examiner notes that claim 10 is substantially similar to claim 6 and therefore rejected under the same analysis.

28. Further claims 12 and 13 are substantially similar to 8 and 9 and are therefore rejected under the same analysis.



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29. Examiner's Note: Examiner has cited particular columns and line numbers in the references as applied to the claims for the convenience of the applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant, in preparing the responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the examiner.

### ***Conclusion***

30. Claims 1-10, 12, and 13 are rejected.

31. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

32. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

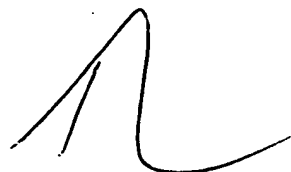
33. The prior arts made of record and not relied upon are considered pertinent to applicant's disclosure.

34. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hai Tran whose telephone number is (571) 272-7364. The examiner can normally be reached on M-F, 9-4 PM.

35. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James A. Kramer can be reached on (571) 272-6783. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

36. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

HT

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